REMARKS

Claims 1-28 remain in the application and claims 1 and 18 have been amended hereby, with claims 29-51 having been canceled and new claims 52-57 having been added.

Reconsideration is respectfully requested of the rejection of claims 1-28 under 35 USC 101, as being directed to non-statutory subject matter.

It is respectfully submitted that amended independent claims 1 and 18 are clearly directed to statutory subject matter because they recite an apparatus having a plurality of interrelated elements.

It is well settled that, if a claim defines a useful machine by identifying the physical structure of the machine in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., Lowry, 32 USPQ2d at 1034-1035; Warmerdam, 31 USPQ2d at 1760.

Further, in most cases, a claim to a specific machine will have a practical application in the technological arts. See, In re Alappat, 31 USPQ2d 1545, 1557 (Fed. Cir. 1994); State Street, 47 USPQ2d 1596, 1601 (Fed. Cir. 1998).

Furthermore, the guidelines set forth in MPEP Sec. 2106 state that only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 USC 101. Clearly claims 1 and 18 recite several limitations having practical applications in the technological arts.

Moreover, independent claims 1 and 18 have been amended to recite the apparatus being connected to an electronic communication network, as suggested in the Office Action at paragraph 1.

Accordingly, it is respectfully submitted that amended independent claims 1 and 18, and the claims depending therefrom, recite statutory subject matter.

Reconsideration is respectfully requested of the rejection of claims 1-28 under 35 USC 103(a), as being unpatentable over Hendricks et al.

Features of the apparatus according to the present invention are a decision unit or controller for checking whether the sent data is data corresponding to a new content and storing the sent data in a memory based on the results of the checking. See steps S9-10 in Fig. 5 of the present application, for example.

The above-noted features of the present invention accomplish the object of providing a system for automatically recording only new content such as newly released songs.

As recited in amended independent claims 1 and 18, a sending receiving unit checks whether received data is data corresponding to the new content.

An advantage of the above-noted features of the present invention is that by checking whether the received data is new content, and storing in memory only the new content, the limited size of the memory can be used effectively.

Amended independent claims 1 and 18 recite the above-

noted features of the present invention.

It is respectfully submitted that Hendricks et al. fails to show or suggest an automatic recording function when there are new contents. Namely, the features such as a decision unit for checking whether data sent from the first sending receiving unit is data corresponding to a new content and the controller controls the second storage unit for automatically storing the data sent from the first sending receiving unit when results of a check by the decision unit verify that the data is data corresponding to a new content, are not disclosed in Hendricks et al. Hendricks et al. is merely providing a user with short video clips on a split screen to choose from after ''grazing'' through the video clips. See col. 20, lines 30-39 of Hendricks et al.

Hendricks et al. relates to a television program delivery system, in which a cable headend receives programs from an operations center and distributes them to set top terminals. Although the Office Action states that the cable headend acts as the decision unit, applicants can find no explanation in Hendricks et al. as to how the headend can verify that data received from a server is data corresponding to new content. Moreover, the automatic storing control when the data is verified as new content, as in the presently claimed invention, is neither shown nor suggested in Hendricks et al.

Although the Office Action suggest that the ability to recognize and store data is inherent in the cable system of Hendricks et al., Applicants respectfully disagree, because an automatic storing control that automatically stores the data

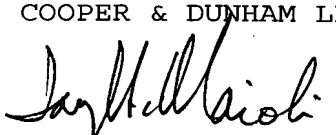
when it is verified as new content would not be an inherent feature in a system such as in Hendricks et al.

Accordingly, it is respectfully submitted that amended independent claims 1 and 18, and the claims depending therefrom, are patentably distinct over Hendricks et al.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

COOPER & DUNHAM LLP



Jay H. Maioli
Reg. No. 27, 213

JHM/PCF:pmc